

Exhibit A

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI

MISSOURI PRIMATE FOUNDATION, et al.,

Plaintiff,

vs. No. 4:16-cv-02163-CDP

PEOPLE FOR THE ETHICAL TREATMENT
OF ANIMALS, INC., et al.,

Defendant.

Deposition via videoconference of THOMAS JONES,
DVM, taken on behalf of the Defendant, at the
offices of Polsinelli, 100 S. Fourth Street, Suite
1000, in the City of St. Louis, State of Missouri,
on the 28th day of January, 2019, before Kristine A.
Toennies, RMR, CRR, CRC, CCR (MO), CSR (IL & IA),
and Notary Public.

1 APPEARANCES OF COUNSEL:

2

3 FOR THE PLAINTIFF:

4 Mr. Victor H. Essen

5 Rynearson, Suess, Schnurbusch & Champion

6 500 N. Broadway, Suite 1550

7 St. Louis, MO 63102

8 (314) 421-4430

9 vessen@rssclaw.com

10

11 FOR THE DEFENDANT (appearing via videoconference):

12 Ms. Martina Bernstein

13 PETA Foundation

14 1536 16th St. N.W.

15 Washington, D.C. 20036

16 (202) 483-2190

17 martinab@petaf.org

18

19 FOR THE DEPONENT:

20 Mr. Brandon T. Moonier

21 Thurman Law Firm

22 301 Main Street

23 Hillsboro, MO 63050

24 (636) 797-2601

25 moonier@thurmanlaw.com

1 MR. MOONIER: M-O-O-N-I-E-R.

2 MS. BERNSTEIN: Thank you.

3 Q (By Ms. Bernstein) Dr. Jones, are you
4 presently employed?

5 A Yes.

6 Q Where are you employed?

7 A Jones Animal Health Clinic.

8 Q Where is that?

9 A In Crystal City, Missouri.

10 Q And how long have you been so employed?

11 A 21 years.

12 Q I'm sorry?

13 A 21 years.

14 Q 21?

15 A Yes.

16 Q Before then what did you do?

17 A I worked for another veterinary clinic.

18 Q What was the name of that clinic?

19 A Twin City Animal Hospital.

20 Q At your present employment, what are your
21 primary responsibilities?

22 A Owner-operator, veterinarian.

23 Q Do you have any experience or training in
24 diagnosing and treating primates?

25 A Only through veterinary school.

1 Q Would it be fair to say that most veterinary
2 graduates have received very little, if any,
3 training in the area of primate medicine?

4 MR. MOONIER: I would object based on
5 speculation.

6 MR. ESSEN: I also object as leading, but
7 subject to that, go ahead.

8 Q (By Ms. Bernstein) You may answer.

9 A We get the basics.

10 Q And what do the basics consist of?

11 A Primarily health, welfare.

12 Q How many hours?

13 A I don't know that I can answer that question
14 because that was 25 years ago.

15 Q Is it fair to say you don't remember much
16 about that experience in veterinary school?

17 MR. MOONIER: I would object. That assumes
18 facts not in evidence, and it's asking him to
19 speculate, but you can answer.

20 A I remember a lot about veterinary school,
21 but I cannot recall how many hours I spent on every
22 single subject.

23 Q (By Ms. Bernstein) Right. I'm not asking
24 you about -- to recall every single subject. I'm
25 asking you with respect to what you recall about the

1 amount, the hours of training you spent in
2 veterinary school being trained in the area of
3 primate medicine?

4 A I would have to guess. It would be anywhere
5 from 10 to 20 hours.

6 Q And why would you have to guess? Why don't
7 you have a clearer recollection?

8 A Because it was 25 years ago.

9 Q And how many of those 10 to 20 hours of
10 training that you received 25 years ago was devoted
11 to the more specialized area of chimpanzee medicine?

12 A Again, I would have to guess. Approximately
13 five to ten. It was lumped into a category of lab
14 animal medicine.

15 MR. ESSEN: Martina, somebody was coming
16 into the room I assume for the purpose of taking
17 Dr. Jones' documents and copying them or scanning
18 them for you, so do you want to do that now or --

19 MS. BERNSTEIN: Yes, now is fine.

20 MR. ESSEN: Let me go try to track that
21 person down now.

22 MS. BERNSTEIN: Sorry for the interruption.
23 I appreciate your patience.

24 (Discussion off the record.)

25 Q (By Ms. Bernstein) Dr. Jones, since you

1 graduated from veterinary school, how many
2 chimpanzees have you treated over the years? Or
3 perhaps I want to be a bit more clear. How many
4 chimpanzees have been your patients?

5 A Specifically my patients?

6 Q Yes, yes, that you would consider to be your
7 patients.

8 A None.

9 Q How many?

10 A Zero.

11 Q I'm sorry?

12 A Zero.

13 Q Expanding to the broader term primates, how
14 many primate patients have you had since you
15 graduated veterinary school?

16 A That were my primary patients?

17 Q That you would consider to be your patients.

18 A Zero.

19 Q Are you familiar with the term
20 veterinarian-client-patient relationship?

21 A I am.

22 Q And with respect to that phrase, what does
23 the word client refer to?

24 MR. ESSEN: I just object as calling for a
25 legal conclusion. Subject to that, go ahead.

1 MR. MOONIER: Victor beat me to it, so I'll
2 join that objection.

3 A That you have a relationship with the
4 owner/client.

5 Q (By Ms. Bernstein) And what does that
6 relationship entail? When do you know that the
7 owner is your client?

8 MR. ESSEN: Same objection, but subject to
9 that, go ahead.

10 MR. MOONIER: I'll join.

11 A When they come in and fill out a record and
12 sign the documents that say they want to come to my
13 clinic.

14 Q (By Ms. Bernstein) So there is a document
15 that needs to be signed --

16 A Yes.

17 Q -- for there to be a client-veterinarian
18 relationship?

19 A I need a record --

20 Q Such --

21 A I'm sorry?

22 Q I'm sorry.

23 A I said in my clinic we require them to fill
24 out a record. Does the document have to exist in
25 order to have a client-patient relationship? In

1 some form or fashion, yes.

2 Q And in the phrase
3 veterinarian-client-patient relationship, what does
4 the term patient refer to?

5 MR. MOONIER: Same objection. Calling for a
6 legal conclusion.

7 MR. ESSEN: I'll join.

8 A That the patient would be the client's
9 animals, whatever they may be.

10 Q (By Ms. Bernstein) And you've never been --
11 you've never had any chimpanzee patients in the
12 context of a veterinarian-client-patient
13 relationship?

14 A As a primary caregiver, no.

15 Q What is the distinction between a primary
16 caregiver patient and any other type of relationship
17 to a patient?

18 A I would consider myself an ancillary
19 caregiver.

20 Q Have you been an ancillary caregiver --
21 well, first let me ask you this. What is your
22 understanding of your role as an ancillary
23 caregiver?

24 A To help and assist.

25 Q With what?

1 A The care of the chimps under the guidance of
2 Dr. Pernikoff.

3 MR. ESSEN: We have a person here, I think,
4 to collect the documents. Thank you.

5 Q (By Ms. Bernstein) Is that a term that is
6 used in the veterinary profession, ancillary
7 caregiver?

8 A Ancillary, assist; those are two commonly
9 used terms. Help.

10 Q In your role as ancillary caregiver, how
11 many chimpanzee -- how many chimpanzees did you
12 provide ancillary care?

13 A I can give you a guess.

14 Q Okay.

15 A 15, maybe 20.

16 Q 15?

17 A 15, maybe 20.

18 Q And expanding this now to the primate
19 category, how many -- to how many primates have you
20 been providing ancillary care?

21 A Again, the 15 to 20.

22 Q And who were these primates or who requested
23 that you provide ancillary care to these primates?

24 A Connie and Dr. Pernikoff.

25 Q Would that be Connie Casey?

1 Q (By Ms. Bernstein) Some of them would have
2 to be involved?

3 MR. ESSEN: Objection. Foundation.

4 Q (By Ms. Bernstein) What do you mean some of
5 them would have to be involved?

6 MR. ESSEN: Objection. Foundation;
7 speculation.

8 MR. MOONIER: I join in that objection.

9 A Now I've lost the question.

10 MR. MOONIER: Too many lawyers talking. Can
11 you repeat that?

12 Q (By Ms. Bernstein) Yes. What do you mean
13 some of these chimpanzees to whom you provided
14 ancillary care would have to be involved in this
15 business of loaning these chimpanzees for
16 entertainment purposes?

17 MR. ESSEN: Same objection.

18 MR. MOONIER: I'll join.

19 A Only because they -- I know that they were
20 there, and I know things that they did, so they had
21 to utilize some of these chimps.

22 Q (By Ms. Bernstein) Okay. Were you also
23 aware Ms. Casey was in the business of breeding
24 primates and selling the babies for profit?

25 A Yes, ma'am.

1 between Jones Health Animal Clinic and the Missouri
2 Primate Foundation and Ms. Casey.

3 We're way off of what we are here to talk
4 about today, and at some point we need to get back
5 on track because I'm going to start commanding him
6 not to answer some of these questions that he's not
7 here to testify about. You didn't call him as an
8 individual. You didn't call him as a veterinarian.
9 You called Jones Animal Health Clinic to testify
10 here today.

11 MS. BERNSTEIN: Well, let me rephrase the
12 question then, Dr. Jones.

13 Q (By Ms. Bernstein) Did Dr. Jones -- or did
14 the Jones Animal Health Clinic provide care or
15 ancillary care for chimpanzees who were used for
16 breeding purposes and who basically gave birth to
17 babies at Ms. Casey's facility?

18 MR. ESSEN: Objection. Foundation;
19 speculation.

20 MR. MOONIER: I'll join.

21 A I would have to assume so, but I -- again, I
22 do not know who bred who, who had babies. I don't
23 know that. I only know one.

24 Q (By Ms. Bernstein) And who would that be?

25 A I do not remember her name, and the only

1 reason I know it is --

2 Q When -- when were you -- just to address
3 counsel's objection, since you are here not
4 testifying in your personal capacity but testifying
5 as to the knowledge of Jones Animal Health Clinic,
6 when I use the term "you," I'm referring to you as
7 the witness testifying on behalf of the Jones Animal
8 Health Clinic.

9 So with that in mind, if you could tell me
10 what you remember about the particular chimpanzee to
11 whom you served as an ancillary caregiver who was
12 used by Ms. Casey for breeding purposes to sell off
13 the babies.

14 MR. ESSEN: Objection. Foundation;
15 speculation; compound.

16 MR. MOONIER: I'll join in that as well.

17 A Again, I do not remember the name of the
18 female chimp that had the baby. I don't remember
19 her name. It's in my records. She delivered a
20 healthy baby, developed an amniotic air embolus,
21 which is absolutely unpreventable, unforeseeable.
22 You can't do anything about it. She had significant
23 issues after the delivery, and she had to be
24 euthanized.

25 Again, that's the only chimp that I am --

1 A She expired.

2 MR. ESSEN: Is it possible that was Kimmy?

3 THE WITNESS: It might be Kimmy. I thought
4 it was Tammy but it might be Kimmy.

5 Q (By Ms. Bernstein) Okay, so your records
6 would have the proper name and you can refresh your
7 recollection?

8 A Yes.

9 Q We're not holding you to -- it's not a
10 memory test. So there was a chimpanzee for which
11 Dr. Pernikoff performed surgery, and during the
12 surgery this chimpanzee passed away?

13 A Yes, ma'am.

14 Q And that's the last time that you recall
15 having any communications with Dr. Pernikoff?

16 A Correct.

17 Q With respect to this chimpanzee who passed
18 away at your clinic, did you perform any acts on her
19 that required a license to practice veterinary
20 medicine in Missouri?

21 A Did I?

22 Q Yes.

23 A No. Dr. Pernikoff was the veterinarian in
24 charge of the case.

25 Q You did nothing that required a license to

1 practice veterinary medicine in Missouri?

2 MR. ESSEN: Object to foundation. Legal
3 conclusion.

4 MR. MOONIER: I'm going to join that
5 objection.

6 MS. BERNSTEIN: Let me restate it.

7 Q (By Ms. Bernstein) With respect to this
8 chimpanzee who passed away during exploratory
9 surgery in your office, did you perform any act that
10 would require a license to practice veterinary
11 medicine in Missouri?

12 MR. ESSEN: Objection. Foundation.

13 MR. MOONIER: I --

14 MR. ESSEN: And speculation; legal
15 conclusion.

16 MR. MOONIER: I join those objections.

17 A I did not. Dr. Pernikoff was the one
18 performing everything. They just utilized my
19 facility.

20 Q (By Ms. Bernstein) And this chimpanzee was
21 in no way your client?

22 MR. ESSEN: Again, objection. Foundation;
23 speculation; legal conclusion. Subject to that, go
24 ahead.

25 MR. MOONIER: I'll join.

1 A No.

2 Q (By Ms. Bernstein) Oh, I'm sorry, your
3 patient?

4 A No.

5 MR. ESSEN: Same.

6 Q (By Ms. Bernstein) So this chimpanzee was
7 not your patient? You did nothing other than
8 provide your facility --

9 A Correct.

10 Q -- for a different veterinarian to perform
11 whatever it is that he performed?

12 A Correct.

13 Q Did you create any record, any veterinary
14 record of this particular chimpanzee as to what
15 happened to her or any tests or anything at all?

16 A I believe I wrote in my record that it
17 occurred, but I did not write in the record of
18 anything that was performed.

19 Q If you would take a look, please, at what we
20 have marked as Jones Exhibit 1.

21 (Deposition Exhibit Number
22 1 marked for identification.)

23 MS. BERNSTEIN: Jones Exhibit 1 for the
24 record bears Casey 00967.

25 MR. MOONIER: We don't have extra copies of

1 MR. ESSEN: Objection. Foundation;
2 speculation. Calls for a legal conclusion. Subject
3 to that, go ahead.

4 MR. MOONIER: I'll object as well. Same
5 basis.

6 A Because I was present and I saw the
7 condition that Kimmy was in. I did not provide
8 care. My facility provided care.

9 Q (By Ms. Bernstein) Right. You were merely
10 an eyewitness to what happened?

11 A Correct.

12 Q And you wrote this letter as an eyewitness
13 as to what you observed?

14 A Correct.

15 Q You observed here that Kimmy was having
16 breathing difficulty and becoming worse?

17 A Correct.

18 Q So when she came to the clinic, she was
19 already having breathing difficulty?

20 A Yes, ma'am.

21 Q For how long had she been having these
22 breathing difficulties?

23 A I have no idea.

24 Q Are you aware that Kimmy was treated for a
25 cough in August of this past year?

1 A At the time of the procedure.

2 Q Just from looking at the chimpanzee, just
3 from being an eyewitness, that's what you concluded?

4 A From seeing her abdomen open.

5 Q I'm sorry?

6 A From seeing her abdomen open, yes, ma'am.

7 Q You say, Kimmy's condition was very grave
8 and her prognosis was none.

9 Who reached the conclusion that her
10 prognosis was none?

11 A Both myself and Dr. Pernikoff after the
12 procedure was done, after she had expired.

13 Q Well, she died before the procedure was
14 done; right?

15 A Yes.

16 Q So obviously there is no prognosis for that
17 chimpanzee?

18 A There is based on what we saw.

19 Q Why was an exploratory performed on the
20 abdomen given that her primary symptoms when she
21 came in were breathing difficulty?

22 A You would have to ask Dr. Pernikoff that.

23 Q You have no idea why he did that?

24 A You would have to ask him.

25 Q Did you agree with the decision based on the

1 fact that you were an eyewitness?

2 A I didn't agree or disagree. I relied on his
3 knowledge.

4 Q Oh, so you have no opinion?

5 A As to the care of the animal, no. Again,
6 they utilized my facility.

7 Q Sure. Something that -- you never bothered
8 to mention that in Jones Exhibit 1?

9 MR. ESSEN: I just object as argumentative.

10 MR. MOONIER: Argumentative; asked and
11 answered.

12 A I said we were a consulting clinic that was
13 closer in proximity to Connie Casey's residence.
14 That's why they utilized my facility.

15 Q (By Ms. Bernstein) Right. Do you agree,
16 Doctor, that if liver disease is detected early
17 enough, it can often be treated and managed?

18 MR. ESSEN: Objection. Foundation;
19 speculation. Also, it's not going to meet the
20 evidentiary standard. Subject to that, go ahead.

21 MR. MOONIER: I would join in those
22 objections.

23 A I don't even know how to answer that
24 question because you're asking me to hypothetically
25 tell you what liver diseases are treatable and what

1 mischaracterizes the prior testimony.

2 MR. MOONIER: That is true. I join in those
3 objections.

4 A So you're asking me to speculate on
5 something that I have no knowledge of?

6 Q (By Ms. Bernstein) The question is when you
7 wrote the sentence, She appeared in good health
8 right up to the end, were you necessarily
9 speculating because you haven't attempted to rule
10 out that she suffered from various ailments?

11 MR. ESSEN: Objection. Asked and answered;
12 argumentative. It's not admissible in its current
13 format, and it mischaracterizes the prior testimony
14 about what he did.

15 MR. MOONIER: Same -- I'll join in those
16 objections.

17 A Did I try to diagnose her prior to her
18 admission? No. Did I treat her in any capacity
19 prior to her admission? No. Did I have any
20 knowledge of her condition prior to admission? No.
21 So I can't speculate as to how she was. I can only
22 say what I saw when she was brought in on that day.

23 Q (By Ms. Bernstein) Right. And when you saw
24 her on that day, she was severely ill; isn't that
25 right?

1 Q If Ms. Casey had brought in Kimmy sooner,
2 her condition could have been treatable and
3 successfully managed; is that possible?

4 MR. ESSEN: Objection. Foundation;
5 speculation. Calls for -- I mean it's an incomplete
6 hypothetical, and it's not going to be admissible in
7 its form.

8 MR. MOONIER: I'll join in those objections.

9 A I do not know.

10 Q (By Ms. Bernstein) One way or the other, you
11 have no opinion?

12 A Yeah, I don't know. I mean, I have no way
13 of knowing.

14 Q Well, isn't part of your job as a
15 veterinarian to counsel a client when you know that
16 the client may not have the sophistication to
17 realize when an animal should be brought in to your
18 clinic? Isn't that part of your role?

19 A It is a part of the role, but it's also up
20 to the client.

21 Q Sure. But if Ms. Casey for some reason
22 didn't realize how urgent the situation was with
23 Kimmy, wouldn't it be appropriate for you to counsel
24 her to next time perhaps seek intervention sooner?

25 A In my role as an ancillary caregiver, it

1 wasn't my position to counsel her because
2 Dr. Pernikoff was her primary physician.

3 Q So you relied on others to fulfill that role
4 with respect to Kimmy?

5 A With respect to Kimmy, yes.

6 Q Based on your experience with previous
7 primates who died at your clinic or shortly after
8 being brought to your clinic, is it your general
9 impression that Ms. Casey waited too long to bring
10 in those animals for treatment that they could not
11 be saved?

12 MR. MOONIER: I would object. That calls
13 for a narrative. There's no specifics with this.
14 It assumes facts not in evidence. We haven't even
15 talked about any other additional chimpanzees or
16 other primates. It's asking him to speculate.
17 Calls for a legal conclusion.

18 MR. ESSEN: I join all of those. It's also,
19 again, in its current form not going to be
20 admissible.

21 Q (By Ms. Bernstein) Of those 20 -- or 12 to
22 20 primates for whom you served as an ancillary
23 caregiver that were not brought to you just for a
24 health certificate to be shipped out, how many of
25 those were you able to treat successfully?

1 A Again, the number that I treated were under
2 the direction of Dr. Pernikoff.

3 Q How many of those survived for more than a
4 few days until after they were presented for
5 ancillary caregiving to you?

6 A I don't have an idea of what that number
7 would be.

8 Q Can you think of a single one who survived
9 more than a few days after being brought to you or
10 who when you visited the site in order to provide
11 ancillary caregiving?

12 A I don't have those statistics. I don't know
13 them. I don't know who survived. I'm sorry?

14 Q None come to mind that survived?

15 MR. MOONIER: I would object. That
16 misstates his testimony and it calls for him to
17 speculate.

18 A That's not what I'm saying. I'm saying I
19 don't know who died and who lived.

20 Q (By Ms. Bernstein) You don't?

21 A Not off the top of my head, no.

22 Q When is the last time you reviewed the file?

23 A Probably about two months ago.

24 Q What did you do to prepare yourself to
25 testify on behalf of Jones Animal Clinic today?

1 right?

2 A Correct.

3 Q And when you made that decision, did you
4 take into account that she was breeding and selling
5 off babies of the chimpanzees who she bred?

6 MR. ESSEN: Objection. Foundation;
7 speculation. Assumes facts not in evidence. It's
8 also vague as to the timeframe.

9 MR. MOONIER: And it's been asked and
10 answered, and it's irrelevant and not likely to lead
11 to any kind of evidence in this case. And I join
12 Mr. Essen's objections.

13 Q (By Ms. Bernstein) Did you ever issue health
14 certificates for the offspring of primates that
15 Ms. Casey bred at her facility?

16 A Yes, ma'am.

17 Q And you did so actually dozens of times;
18 isn't that right?

19 A Correct.

20 Q So you knew that Casey not only bred
21 chimpanzees but that she ships them off to others?

22 A Correct.

23 Q You're aware of that?

24 A Correct.

25 Q How old were these chimpanzees or other

1 Q (By Ms. Bernstein) So as far as you know,
2 you're not aware of any reports that have raised
3 concerns about separating primate babies from their
4 mothers prematurely?

5 A No.

6 Q That's news to you?

7 MR. ESSEN: Same objection. It's also vague
8 as to what harm means.

9 MR. MOONIER: And reports. I'll join in
10 those objections.

11 Q (By Ms. Bernstein) Is it news to you that it
12 can be harmful to a baby primate to be separated
13 from his or her mother too early?

14 MR. ESSEN: Objection. Asked and answered.
15 It's vague as to what harmful means. It also lacks
16 foundation; calls for speculation.

17 MR. MOONIER: I'll join in those objections.

18 A No.

19 Q (By Ms. Bernstein) It's not news to you?

20 A No, I'm not aware of it.

21 Q Oh, you're not aware of it?

22 A I'm not aware of the report.

23 Q You've never heard, for example, in
24 veterinary school that one of the ways that a
25 chimpanzee might be harmed in a lab is if they are

1 separated too early from their mothers? That was
2 never discussed in veterinary school?

3 A I am not a lab animal specialist, ma'am. I
4 can't comment on that.

5 Q Right. I believe, if I remember correctly,
6 you said that the only education, training and
7 experience you had was what you learned in
8 veterinary school, and my question is was that point
9 brought up in veterinary school that a chimpanzee
10 might be harmed if he or she is separated from his
11 mother too soon?

12 A No.

13 Q With respect to the chimpanzee named Connor,
14 did you ever perform any acts requiring a license to
15 practice veterinary medicine in Missouri?

16 A Other than health certificates, not to my
17 knowledge.

18 (Deposition Exhibit Number
19 3 marked for identification.)

20 Q Can you check -- can you take a look at
21 Exhibit 3, please.

22 MS. BERNSTEIN: For the record Exhibit 3 is
23 a document Bates numbered Casey 00969 to 970. It's
24 a two-page document. The first page is an invoice
25 for the patient Connor.

1 MR. ESSEN: Objection. Foundation;
2 speculation. Assumes facts not in evidence and is
3 not admissible.

4 MR. MOONIER: I would add on that it's
5 irrelevant as well, and I join those objections.

6 MS. BERNSTEIN: Probably not irrelevant to
7 Candy.

8 MR. MOONIER: We don't know what -- you have
9 not established that she's been diagnosed with
10 anything. You said is it possible, is it possible,
11 is it possible. We don't know any of these things.

12 MR. ESSEN: The issue --

13 MR. MOONIER: It's completely irrelevant.

14 MR. ESSEN: The issue is whether it's
15 relevant in a court of law. You are a lawyer first.

16 Q (By Ms. Bernstein) If liver disease is
17 untreated, if liver disease is undiagnosed and
18 untreated, could it prove fatal to Candy?

19 MR. ESSEN: Objection. Foundation;
20 speculation. Assumes facts not in evidence. It's
21 completely inadmissible. It's argumentative.

22 MR. MOONIER: Is there anything in the
23 records that suggests this? Because that's what
24 he's here for. If you're asking him his opinions as
25 an expert, he's not here as an expert. He's not

1 here for that.

2 If I cut my foot and get an infection, could
3 I die from it? Maybe. But what does that have to
4 do with the records that we're asking about right
5 now? Where is it in this record that suggests this?

6 MS. BERNSTEIN: Are you instructing him not
7 to answer?

8 MR. MOONIER: No, but at some point we need
9 to move past these speculative questions. We're not
10 getting anywhere with respect to the information
11 that's in the records. That's what he's here for.

12 MR. ESSEN: Which would be consistent with
13 the scope of the designation, but you know,
14 whatever.

15 A Is it possible for the liver -- it's
16 possible.

17 Q (By Ms. Bernstein) Yes. Based on these
18 results, did you advise Ms. Casey to do further
19 testing or to get a differential diagnosis to find
20 out precisely why Candy's urine test is the way it
21 is?

22 A I did not.

23 Q Can you tell me why you did not make that
24 recommendation?

25 A I didn't do it.

1 MR. MOONIER: I'd object. That assumes
2 facts not in evidence and lack of foundation.

3 MR. ESSEN: Join.

4 A Again, I don't know how to answer the
5 question because you're kind of implying that obese
6 animals have urinary problems, and that's not
7 necessarily the case. So the obesity may not even
8 play a part in any of the urinalysis results, so I
9 don't know how to answer the question.

10 Q (By Ms. Bernstein) Diabetes would sometimes
11 one of the -- sometimes an animal or a chimpanzee
12 who's overweight, that might lead to diabetes?

13 MR. ESSEN: Objection. Foundation;
14 speculation. Assumes facts not in evidence. It's
15 not admissible.

16 MR. MOONIER: And you're asking for expert
17 opinions here too. I mean the record that you have
18 in front of you has nothing to do with a weight
19 exam, a height exam, analysis of that. You're
20 asking for expert opinions here and he's not giving
21 those.

22 MS. BERNSTEIN: All right. Can we have a
23 stipulation that Dr. Jones is not qualified to give
24 an expert opinion on the health and welfare of
25 chimpanzees?

1 that Ms. Casey neglected her duties as an owner to
2 obtain care for Toni in a more timely manner?

3 MR. ESSEN: Same objection. I mean, again,
4 you're asking him to opine on the standard of care
5 for an animal owner, and I'm not even sure there is
6 such a thing. This is just completely ridiculous.
7 If he were my witness, I would instruct him not to
8 answer.

9 MR. MOONIER: He's not answering this kind
10 of question. It would be totally different if we're
11 talking about expert witnesses and things like that,
12 but we're not. He's not here to answer those kinds
13 of questions. We're not going down that road.

14 MS. BERNSTEIN: Are you instructing him not
15 to answer?

16 MR. MOONIER: He will not answer that
17 question in the form it is presented.

18 MS. BERNSTEIN: Are you instructing him not
19 to answer?

20 MR. MOONIER: Your particular question, yes.

21 Q (By Ms. Bernstein) Are you going to follow
22 your counsel's advice and you will not answer the
23 question that I asked?

24 A I have to.

25 Q At the time you euthanized Toni, what was

1 and answer the question that you previously could
2 not answer because you didn't have the records.

3 I asked you whether you can identify any
4 primates that survived more than a few days after
5 you saw them, in other words, they were either dead
6 or ready to be euthanized, whether any primates you
7 ever saw of Ms. Casey who survived --

8 MR. ESSEN: I just object as vague --

9 Q (By Ms. Bernstein) -- for more than a few
10 days?

11 MR. MOONIER: I object on speculation as
12 well.

13 A The ones that I did health certificates on
14 certainly survived.

15 Q (By Ms. Bernstein) How do you know?

16 A Well, then I don't know any of it then.

17 Q Well, with respect to -- setting aside now
18 the ones that were ready to be shipped out and you
19 gave them a health certificate, any other primates
20 for which you were the ancillary caregiver that
21 survived for more than a few days after you were
22 called to provide such care?

23 A To my knowledge, no.

24 (Deposition Exhibit Number
25 7 marked for identification.)

1 to utilize my pharmacy if at all possible.

2 Q Well --

3 A I did not see the animal.

4 Q But how is it that you could determine that
5 her illness began in February 2016 as opposed to
6 some previous time?

7 MR. ESSEN: Objection. Foundation;
8 speculation; vague.

9 MR. MOONIER: He asked and answered that
10 too. It's based upon Dr. Pernikoff's knowledge and
11 what he learned from Connie. We established that.

12 A That's my answer.

13 Q (By Ms. Bernstein) So you're saying
14 Dr. Pernikoff told you Toni's illness began in
15 February 2016? Is that your sworn testimony?

16 A Yes.

17 Q Okay. And then you say, well, she became
18 ill with pneumonia. How do you know that in
19 February 2016 she became ill with pneumonia as
20 opposed to some other illness?

21 A Again, Dr. Pernikoff's and Connie Casey's,
22 what they told me.

23 Q So in this letter you're just writing what
24 the client told you or another veterinarian told
25 you? You have no knowledge whether that's true or

1 false; is that right?

2 A Correct.

3 Q You then say, She was treated with multiple
4 antibiotics: Amoxicillin, Enrofloxacin, and
5 Rocephin. Do you see that?

6 A Yes.

7 Q I may have mangled the words, but they're
8 written here for somebody who knows how to pronounce
9 them better.

10 Who was the person who treated her with
11 amoxicillin?

12 A Most likely me.

13 Q But you have no records of that?

14 A I would have to look back at my invoices.

15 Q Please have a look.

16 A Okay. I did not dispense the amoxicillin.
17 I did dispense the Enrofloxacin.

18 Q So who treated her with amoxicillin?

19 A I would assume Dr. Pernikoff.

20 Q You're just assuming? How do you know?

21 A I have no idea. I don't know.

22 Q So you wrote something that she was treated
23 with amoxicillin even though you have no idea if
24 that is true?

25 MR. ESSEN: Objection. Foundation;

1 speculation. It's also argumentative, and it's not
2 really reflective of a practice of a veterinarian or
3 any other healthcare provider. Subject to that, go
4 ahead.

5 MR. MOONIER: I'll join in that objection.

6 A I'm going on the basis of what they told me.

7 Q (By Ms. Bernstein) You didn't write down
8 what they told you, did you?

9 A No.

10 Q So it could have been Casey who told you?

11 A It could have been.

12 Q It could be that she misremembered?

13 MR. ESSEN: Objection. Foundation;
14 speculation.

15 MR. MOONIER: I'll join.

16 MR. ESSEN: Manned space flight is possible.
17 It's not relevant.

18 Q (By Ms. Bernstein) So this is pure
19 speculation on your part as to whether or not she
20 was treated with amoxicillin?

21 MR. ESSEN: Objection. Foundation;
22 speculation. It's not pure speculation. You know,
23 a veterinarian is like any healthcare provider,
24 necessarily going to rely on information that's
25 provided to him by other professionals he's working

1 A Correct. I have the results.

2 Q Right. The result being that she could --
3 indicating that she could suffer from any number of
4 diseases, including diabetes, Cushing's disease,
5 Addison's disease, kidney failure or liver disease;
6 is that correct?

7 MR. ESSEN: Objection. Foundation;
8 speculation. It's an improper opinion and
9 inadmissible.

10 MR. MOONIER: Join.

11 A Is that possible? It's possible.

12 Q (By Ms. Bernstein) Right. You don't have a
13 treatment -- you don't have an intended treatment
14 plan for Candy; is that right?

15 MR. MOONIER: I would object to the extent
16 that it seeks for a legal conclusion under the
17 federal law here. I would object.

18 A And I don't have a treatment plan because I
19 didn't do it.

20 Q (By Ms. Bernstein) Right. You don't have a
21 prognosis because you didn't do that either?

22 A Not me. I don't know how to answer the
23 question.

24 Q Well, you don't have a prognosis in your
25 records for the chimpanzee Toni, but it didn't keep

1 Q If Angel had not been bred, do you think she
2 might be alive today?

3 MR. ESSEN: Objection. Foundation;
4 speculation. It's a totally inadmissible opinion.

5 A I don't even know if Angel ever had babies.

6 Q (By Ms. Bernstein) Did you take any records
7 at all with respect to the procedure that was
8 performed at your clinic?

9 A I did not.

10 Q Did you play any role at all that -- or did
11 you perform any acts that would require a license of
12 a veterinarian with respect to Angel?

13 A No.

14 (Deposition Exhibit Numbers
15 11 and 12 marked for identification.)

16 Q If you would have a look, please, at Exhibit
17 11 and 12 together. Exhibit 11 bears the Bates
18 number Jones Animal Clinic 8. Exhibit 12 bears the
19 Bates number Jones Animal Clinic 42.

20 A Okay.

21 Q The reason I ask you to look at both is
22 because one is an invoice for a patient whose name
23 is not identified for an ultrasound dated April 30
24 of 2013.

25 A It's for a chimp named Kelly.

1 Q And that Exhibit 12 is an ultrasonography
2 report dated April 30, 2013, and it identified the
3 patient as Kelly. Does that lead you to conclude
4 that Exhibit 11, the invoice, was also related to
5 Kelly?

6 A Yes.

7 Q For the ultrasound that is reflected in
8 Exhibit 12?

9 A Yes.

10 Q Who ordered this ultrasound?

11 A Dr. Pernikoff.

12 Q Do you have any records -- do you have any
13 veterinary records relating to Kelly?

14 A I have the ultrasound report in here. I
15 don't think I do.

16 Q You don't? Do you know why you might not
17 have --

18 A The procedure was done at my clinic and that
19 was it.

20 Q I'm sorry?

21 A The procedure was done at my clinic and that
22 was it.

23 Q You played no role at all?

24 A I'm sorry?

25 Q You played no role at all in treating or

1 diagnosing Kelly?

2 A Not to my knowledge.

3 Q Exhibit 12, which is the ultrasonography
4 report, on the page under Impressions, it states,
5 Cystic structure associated with uterus may be of
6 left ovary or uterine origin, rule out ovarian cyst
7 or cystic nodule within the uterus.

8 Do you see that?

9 A Yes.

10 Q So that was an abnormality that was found on
11 the ultrasonogram?

12 A According to the report.

13 Q Right.

14 A I didn't do it.

15 Q You ordered the report per Dr. Pernikoff?

16 A They utilized our facility because it was
17 closer, and Dr. Brochtrup is the one that performed
18 the procedure.

19 Q Right. He's a veterinarian at the Jones
20 Animal Health Clinic?

21 A No.

22 Q How did he come to perform the procedure at
23 your facility?

24 A She's a veterinary board certified
25 radiologist, and she performs ultrasounds for us at

1 the facility.

2 Q And she made a finding that there was an
3 impression of a cystic structure associated with
4 uterus?

5 A That's what it said.

6 Q She's the one -- okay. Was this finding
7 acted upon?

8 A I do not know.

9 Q One way or the other?

10 A No.

11 (Deposition Exhibit Number
12 13 marked for identification.)

13 Q Well, if you take a look, please, at Exhibit
14 13, a letter dated May 20, 2013, Bates number Casey
15 00347.

16 MR. MOONIER: Hold on a second. We have to
17 pass these around whenever you reference them.

18 MS. BERNSTEIN: Got it. Just let me know
19 when you're ready. Are we good to go?

20 THE WITNESS: Let me --

21 MR. MOONIER: All of us read it but
22 Dr. Jones. One second.

23 A Okay.

24 Q (By Ms. Bernstein) So in this letter you
25 wrote, On May 17, 2013, I examined a 15-year-old

1 chimpanzee named Kelly for Connie Casey. Is that
2 true?

3 A I examined her deceased.

4 Q Is that called a necropsy?

5 A Yes.

6 Q So you only examined her after she was dead?

7 A Correct.

8 Q Is there a way of telling that in this
9 letter? So by the time you were called for some
10 ancillary caregiving, Kelly was already dead?

11 A Correct.

12 Q You say the animal had a previous history of
13 anorexia and weight loss. How did you determine
14 that that was the animal's previous history?

15 A Based on what Connie told me.

16 Q Really? The only reason I'm somewhat
17 surprised is at her deposition she denied that there
18 was a previous history of anorexia.

19 A It's in the letter. I have to go with the
20 letter.

21 Q Right, but how do you know that the
22 information came from Connie Casey?

23 A Because I can't perform my job without the
24 knowledge and the word of my clients.

25 Q How do you know that she has the wherewithal

1 Q Are you familiar with the term preventive
2 veterinary care?

3 A Yes.

4 Q What does that refer to?

5 A To try and immunize and prevent health
6 hazards in the future. Immunizations is one of the
7 primary ways of doing that.

8 Q And as far as you know, you've never seen
9 any indication that Ms. Casey provided any kind of
10 preventive veterinary care; is that right?

11 A Other than buying dewormer from me, to my
12 knowledge, no.

13 Q She bought dewormer from you?

14 A Yes.

15 Q For which chimpanzee?

16 A For the whole house.

17 Q For what?

18 A The whole house, to deworm everybody.

19 Q The whole house? What does that mean?

20 A All the chimps.

21 Q What dewormer did she buy from you?

22 A It's called Pyrantel Pamoate.

23 Q Can you spell that?

24 A P-Y-R-A-N-T-E-L P-A-M-O-A-T-E.

25 Q And when did she buy that from you?

1 not even -- you're asking for opinions now of
2 certain types of medical care.

3 A Would I say -- I don't know. I mean, you're
4 asking for something that I don't have the answer
5 for. I mean is that two areas? Yeah.

6 MR. ESSEN: Because we're like launching
7 into a new topic here, can we please take a break?

8 MS. BERNSTEIN: Let me just follow up with
9 this question, and then we can take a break.

10 MR. ESSEN: Spectacular.

11 Q (By Ms. Bernstein) With respect to the
12 records that you have produced and setting aside
13 those instances where you were just asked to provide
14 a health certificate for transportation purposes,
15 setting aside the health certificate, is it fair to
16 say that all your records reflect either emergency
17 care or necrosis -- I mean not necrosis -- basically
18 the animal was either presented in a state of
19 emergency or was already dead?

20 A The majority of the entries, taking health
21 certificates outside, take that out of there, then
22 that would be fair to assume that that's the
23 majority of what we did.

24 Q Is there any entries in your record --

25 MR. ESSEN: Can I please use the restroom?

1 Q By the time you were asked to provide any
2 ancillary care for Sheena, it was too late to do
3 anything but humanely euthanize her?

4 A I do not recall. I'm trying to find
5 evidence of what I did, but I do not recall that.
6 It was ten years ago.

7 Q You have no notes in your records at all --

8 A I'm looking for them.

9 Q -- relating to Sheena?

10 A I'm looking for them.

11 Q Thank you.

12 A If I have records, I don't know where
13 they're at.

14 Q Does that mean you did not prepare such a
15 record?

16 MR. MOONIER: I would object. That
17 mischaracterizes his testimony.

18 A I euthanized her. That's all I know.

19 Q (By Ms. Bernstein) Right, because you have
20 no records reflecting what kind of examination you
21 performed or her condition?

22 A Correct.

23 Q And you don't know for how long she had been
24 sick before she needed to be euthanized?

25 A I don't remember her.

1 patient, the animal, can't provide you that sort of
2 history; right?

3 MS. BERNSTEIN: Objection. Overbroad with
4 respect to any animal and lack of foundation.

5 A Correct.

6 Q (By Mr. Essen) And it's a reasonable
7 practice for a veterinarian to rely on, at least to
8 a certain extent, the history that is provided by
9 the client, the owner of the animal; correct?

10 MS. BERNSTEIN: Objection. When you say
11 reasonable practice, are you now asking him to
12 testify as to the appropriate standards for
13 treatment, or is he now all of a sudden qualified to
14 testify about what is a reasonable practice in
15 treating and testing animals?

16 MR. MOONIER: He's not been called as an
17 expert witness, or he has not been retained as a
18 nonretained expert witness.

19 MS. BERNSTEIN: Okay. But he is qualified
20 to testify as to what a reasonable practice is with
21 regard of treating and testing animals?

22 MR. ESSEN: I asked him a question. Is that
23 an objection? Is that an objection?

24 MS. BERNSTEIN: Do you have a good faith
25 basis to ask the question as to what a reasonable

1 MR. ESSEN: I believe so.

2 THE WITNESS: This one may not have --

3 MS. BERNSTEIN: Those were included in the
4 records?

5 MR. MOONIER: I'm checking. We're checking.

6 Q (By Mr. Essen) Let me ask you this. Is that
7 urinalysis, is it negative?

8 A You could probably maybe interpret it as
9 dilute and maybe, maybe not a little bit of
10 infection.

11 Q Okay. Is there necessarily anything that
12 would have needed to be done as a result of that?

13 A Not necessarily. Maybe just look at the
14 specific gravity again.

15 MR. MOONIER: Martina, it was produced. It
16 is an Idexx laboratory two-page document printed
17 November 17, 2018, at 11:50 a.m.

18 MS. BERNSTEIN: Wonderful. Is the patient
19 name on the --

20 MR. MOONIER: No. It's patient name Candy.
21 The first page says patient name Candy. The second
22 page is patient name unknown.

23 MS. BERNSTEIN: But the second page is also
24 Candy? How does Dr. Jones know that this refers to
25 a test by Candy --

1 MR. MOONIER: Hold on.

2 MS. BERNSTEIN: -- about Candy?

3 MR. MOONIER: You'll get a chance to ask
4 questions. I guess if Victor wants to ask that
5 question, he can, or Mr. Essen.

6 MS. BERNSTEIN: Well, then I object to
7 asking him about this. Lack of foundation as to who
8 this refers to with respect to the page that says
9 unknown.

10 Q (By Mr. Essen) Let me ask you this. Does
11 this all relate to Candy?

12 A As I understand it, yes.

13 Q So it's all the same date, all the same
14 time, right, or close to the same time; right?

15 A Yes.

16 Q So again, you don't know what was done in
17 follow-up to this; right?

18 A No.

19 Q And you don't have an opinion about what was
20 done in follow-up to this; right?

21 A I can't have an opinion.

22 Q Fair enough. So obviously you couldn't
23 conclude from this that Candy has any kind of
24 condition that is caused by something about her
25 environment at Connie Casey's place; right?

1 A I wouldn't have an opinion on that.

2 MS. BERNSTEIN: Objection. Lack of
3 foundation.

4 Q (By Mr. Essen) Let me ask you this. Looking
5 at Defendant's Exhibit A again, do you believe any
6 other veterinarian could rely upon this alone to
7 come up with a conclusion about whether or not any
8 condition at Connie Casey's facility was causing any
9 problem to Candy?

10 A No.

11 MR. MOONIER: Object on speculation.

12 A No.

13 MS. BERNSTEIN: I join that.

14 Q (By Mr. Essen) Then let's mark that as B.

15 MR. MOONIER: It's the -- I don't know if
16 you marked this one or not, Martina. I guess not.

17 MR. ESSEN: It's in her folder.

18 MR. MOONIER: It's in your folder. It's not
19 marked. It's the -- I'll let Mr. Essen, I guess,
20 identify the document for you.

21 MR. ESSEN: This is an Idexx Laboratories
22 page that purports to be from Connor on November 30,
23 2018. It's a urinalysis.

24 (Defendant's Deposition Exhibit Letter
25 B marked for identification.)

1 what occurred is really kind of beyond what would be
2 possible; correct?

3 A Correct.

4 MS. BERNSTEIN: Objection to your
5 characterization of Dr. Jones' conclusions.

6 Q (By Mr. Essen) At some point we talked about
7 a chimp named Angel; is that right? Do you recall
8 that? If you don't, I don't think it's in your
9 records.

10 A I remember the name but I don't remember the
11 circumstances.

12 Q Let me ask you this. If you want to look
13 through your records more carefully, that's fine,
14 but the way I understood it you weren't really
15 involved with Angel's treatment and then did not
16 perform a necropsy report or anything like that with
17 respect to Angel; is that right?

18 A With respect to Angel, like I said, I
19 remember the name earlier, but I do not remember the
20 circumstances.

21 Q So you really just can't comment about
22 Angel's care one way or another; is that right?

23 A Not at this time.

24 Q All right. Let me then I guess direct your
25 attention to the August 28, 2012, correspondence